

these paychecks, Alligator Grill paid me a direct wage of \$2.13 per hour, plus a portion of the tips I made during the pay period. No one from Alligator Grill explained the “tip credit” to me or notified me that Alligator Grill would use my tips to make up the difference between the \$2.13/hour I was paid and the full statutory minimum wage. However, I was not allowed to keep all of the tips given to me by the customers. Rather, Alligator Grill required me, and all of the other servers (i.e. waiters and bartenders), to contribute 4% of my total sales to a mandatory tip pool which was distributed to other restaurant employees – including hostesses, expeditors, dishwashers, prep cooks, and non-service bar backs.

4. Alligator Grill’s policy required its servers to contribute 4% of their tips to a mandatory tip pool. I was shown a copy of the employee policy manual or handbook, which confirmed that the servers were required to tip out 4% of our net sales. A copy of the tip out policy is reflected on page 5 of the Team Member Manual, attached to Plaintiffs’ Motion for Conditional Certification as Exhibit 6.

5. Throughout the entire duration of my employment at Alligator Grill, the tip pool monies were distributed to the following employee positions: expeditors (a/k/a/ ‘expos’), hostesses, dishwashers, and prep cooks. Later on, Alligator Grill created a position called ‘bar back’ – whose position was solely to support the bartenders keep the bar clean and stocked with ice, beer, liquor, and glasses. The bar back was ‘non-service’ because he did not have any interaction with the customers and was not allowed to serve drinks to the customers. The bar backs also received a part of the tip pool. I know that each of these positions received part of the tip pool because I personally spoke with employees who worked in each of these positions and have verified this information with them. In addition, I have seen pay checks for each of these positions. When I worked there, each of these employees would receive two checks every pay

period, one for his/her hourly wage, and another check for their share of the tip pool monies. There was a mandatory meeting I attended in which the tip pool was brought up and Dack Zerger, an assistant manager, told everyone the tip share would never change and if we did not like it to find another job.

6. I understand that Steve Wimberly, the owner, and Paul Blandford, the General Manager, have both testified in this case that Alligator Grill employed bus boys or "bussers" to assist the wait staff. That is not true. At no time during the four years that I worked at Alligator Grill did we have bussers. The waiters were required to bus their own tables. The waiters would clear dirty dishes, glasses, and silverware from the customers' tables, take them to the kitchen, scrape the uneaten food off the plates, and put them on the counter or dish rack for the dishwashers. The dishwashers would then wash the dirty items. I also understand that Paul Blandford testified that the dishwashers would, on occasion, go out into the main part of the restaurant and 'bus' the tables. While he testified that this was done on rare occasions, I never had a dishwasher bus my tables and never saw a dishwasher, or any other employee, bus tables for any other server.

7. When I worked more than forty (40) hours in a workweek, Alligator Grill would pay me \$3.19 per hour as an overtime wage.

8. Alligator Grill also made its servers pay for the uniforms we were required to wear when we were working. When I was first hired, I purchased two shirts from Alligator Grill and I had to pay them \$7.50 per shirt. When I needed a replacement uniform, I would purchase another one from the manager on duty. If I did not have any money with me, I would pay for it at the end of my shift with the tips I earned.

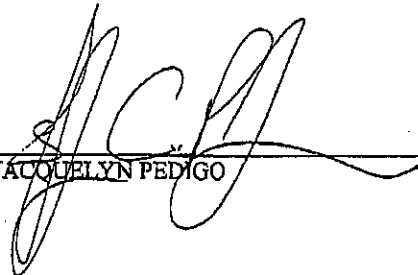
9. The mandatory tip out was the subject of a lot of talk among the servers. In addition, I asked the General Manager, Paul Blandford, about the tip pool and why we were required to share our tips with back of the house employees like the dishwashers and prep cooks. He told me that this was the company's policy and, if I did not like it, that I could find another job.

10. I know that the 4% tip pool policy, uniform policy, and overtime wage policy applied to all servers at Alligator Grill (i.e. not just me). There was only one employee handbook or policy book during the time that I worked there and it applied to all waiters and bartenders. I have also had conversations with many of the waiters and bartenders who advised me that they also had to pay 4% of their tips into the mandatory tip pool. I specifically recall talking to Jason Wiest, Joshua Roberts, Kasey Herber, and several others whose names I cannot recall right now, and they all confirmed that they were required to participate in the same policy.

11. When I found out that the restaurant's tip pool practice, overtime wage policy, and uniform policy violated federal wage laws, I decided to file this lawsuit to recover the monies owed to me. While other employees who worked with me became aware of the lawsuit (and eleven others decided to join), I believe other servers would join this case if they knew about it and were given the chance to join. However, I do not know the names and addresses of the servers who worked at the restaurant in the last few years.

12. I have read this Declaration. I swear under penalty of perjury that the facts recited therein are true and correct."

Dated: December 10, 2009


JACQUELYN PEDIGO

LIGATOR GRILL

EMPLOYEE GRILL									
EMPLOYEE ID		EMPLOYEE NAME		DATE	VACATION	SICK	SOCIAL SEC. NO.	START PERIOD	END PERIOD
00000000		JACQUELYN C. PEDIGO		3/26/08	0.00	0.00	000-00-0000	3/3/08	3/15/08
EARNINGS				TAXES		DEDUCTIONS		BENEFITS	
CODE	RATE	HOURS	AMOUNT	CODE	WITHHELD	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE
	\$2.13	64.06	\$136.45	FICA	\$12.27	\$78.62		\$0.00	\$0.00
	\$703.00			MED.	\$52.04	\$340.37		\$0.00	\$0.00
				S.S.	\$72.24	\$441.50		\$0.00	\$0.00
				FEDERAL					
				STATE					
				LOCAL					
TOTAL			64.06	\$136.45		\$136.45		\$0.00	
GROSS YEAR-TO-DATE								NET YEAR-TO-DATE	
								\$901.87	\$40.39
								NET PAY	\$0.00

LIGATOR GRILL

4348

ALLIGATOR GRILL

EMPLOYEE ID	EMPLOYEE NAME	DATE	VACATION	SICK	SOCIAL SEC. NO.	START PERIOD	END PERIOD		
	JACQUELYN C. PEDIGO	5/18/08	0.00	0.00	000-00-0000	5/26/08	5/18/08		
EARNINGS		TAXES		DEDUCTIONS		BENEFITS			
CODE	RATE	HOURS	AMOUNT	CODE	WITHHELD	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE
PM	\$2.13	50.91	\$108.44	FICA	\$12.31	\$140.29		\$0.00	\$0.00
	\$740.00			MED.	\$52.61	\$599.38		\$0.00	\$0.00
				S.S.	\$42.52	\$745.20		\$0.00	\$0.00
				FEDERAL					
				STATE					
				LOCAL					
TOTAL			\$0.91	\$108.44		\$108.44		\$0.00	
GROSS YEAR-TO-DATE								NET YEAR-TO-DATE	
\$1,529.36								\$144.51	
NET PAY								\$0.00	

LIGATOR GRILL

ALLIGATOR GRILL

4299

EMPLOYEE ID	EMPLOYEE NAME	DATE	VACATION	SICK	SOCIAL SEC. NO.	START PERIOD	END PERIOD
26	JACQUELYN C. PEDIGO	5/4/08	0.00	0.00	000-00-0000	5/22/08	5/25/08

EARNINGS				TAXES			DEDUCTIONS			BENEFITS		
CODE	RATE	HOURS	AMOUNT	CODE	WITHHELD	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE	CODE	AMOUNT	YEAR-TO-DATE
AR PM	\$2.13	59.01	\$125.69	FICA				\$0.00	\$0.00		\$0.00	\$0.
T	\$660.00			MED.	\$11.39	\$127.88						
				S.S.	\$48.71	\$546.77						
				FEDERAL	\$65.59	\$781.68						
				STATE								
				LOCAL								
											\$0.00	
											GROSS YEAR-TO-DATE	NET YEAR-TO-DATE
											\$1,520.92	\$144.
												NET PAY
												\$0.00

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